

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

PHILLIPS CHARLES

Defendant

Criminal No. 21-CR-10099-NMG

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF SENTENCING
RECOMMENDATION**

The government mistakenly filed its sentencing memorandum based upon the first disclosure of the Presentence Report (“PSR”). In the revised PSR, Probation identified three total criminal history points (as opposed to one point in the original disclosure), equating to a revised criminal history category of II (PSR ¶¶64-66, pp. 31-32). The additional two criminal history points are predicated upon the Defendant serving a probation sentence during the commission of the offense conduct. See USSG § 4A1.1(d). With the same offense level of 27 and criminal history category of II, the revised guideline sentencing range (“GSR”) is 78 to 97 months (PSR ¶95).

Though now at the low end of the revised GSR, 78 months remains an appropriate sentence. In particular, the two additional criminal history points relate to the same misdemeanor offense that already received one point for the CWOFF and involved a small number of pills (PSR ¶64). As noted, this case is the Defendant’s first felony conviction. Consequently, for the reasons discussed in the sentencing memorandum, the sentencing factors are appropriately addressed by a 78-month sentence.

CONCLUSION

Based upon the foregoing, the government requests that the Court impose a sentence of 78 months, followed by four years of supervised release.

Respectfully submitted,

JOSHUA S. LEVY,
First Assistant United States Attorney
Acting Under Authority Conferred
by 28 U.S.C. § 515

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Philip A. Mallard
PHILIP A. MALLARD
Assistant U.S. Attorney

Date: September 1, 2022